

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

VICTOR DEAN LINDSEY,

Defendant-Appellant.

UNPUBLISHED

January 13, 2005

No. 250145

Wayne Circuit Court

LC No. 03-004959-01

Before: Neff, P.J., and Cooper and R.S. Gribbs*, JJ.

COOPER, J. (*concurring*).

I agree with the majority's decision to affirm defendant's convictions. I write separately, however, because I do not agree that the trial court's failure to caution the witnesses against discussing the evidence, in connection with its sequestration order, should be taken so lightly. The purpose of a sequestration order is to prevent the witnesses from "coloring" [their] testimony to conform with the testimony of another."¹ Such "coloring" occurs not only when the witnesses are present in the courtroom to hear the evidence, but also when the witnesses compare their future testimony outside of the courtroom.² Certainly, allowing two witnesses to share a holding cell where they freely exchange information regarding the case in which they are about to testify does not comport with the spirit of any sequestration order. However, in light of the overwhelming evidence against defendant, I would not find that this shortcoming in the sequestration order requires reversal.

/s/ Jessica R. Cooper

¹ *People v Stanley*, 71 Mich App 56, 61-62; 246 NW2d 418 (1976) (questioning the efficacy of a sequestration order that fails to order the witnesses not to discuss the evidence).

² See *id.*

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.